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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/783,404	02/20/2004	Raymond D. Chavers	284-37042-US	6339

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EXAMINER	
STEPHENSON, DANIEL P	
ART UNIT	PAPER NUMBER
3672	

DATE MAILED: 08/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/783,404

Applicant(s)

CHIVERS ET AL.

Examiner

Daniel P. Stephenson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 June 2006.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-4 and 6-26 is/are rejected.
7) ☒ Claim(s) 5 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 27 December 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1-4, 6-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fredd '599 in view of Scarsdale. Fredd '599 (Fig 2) discloses a reservoir completion assembly for selective production of production fluid from a lower a lower completion section formed of tubing string and a packer device for securing the lower completion section within the wellbore section of a wellbore. The system has an upper completion section formed of tubing string, an anchor device (103) for selectively latching into the packer device, and a reservoir control valve for controlling flow of fluid from the lower completion. The reservoir control valve has a control valve body with an anchor portion for selectively landing the control valve body into a packer within the wellbore. It also has a fluid flow port disposed within the valve body. There is a first slidable sleeve member (55) that is moveable between an open position, wherein fluid communication through the port is not blocked by the first sleeve member, and a closed position, wherein fluid communication through the port is blocked by the first sleeve member. There is also a second sleeve member (71) that is moveable between an open position, which allows fluid communication through the port, and a closed position, which does not allow fluid communication through the port. A stinger opens the first sleeve member. The valve body is separable from the packer. The second sleeve is driven to the open position with annulus pressure and can be selectively closed by pressurizing the tubing above it. Fredd '599 shows all the limitations of the claimed invention, except it does not disclose that there is an outer shroud

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for containing the flow of production fluid. Nor does it disclose a pump incorporated within the upper completion for assisting flow towards the surface. Nor does it disclose that the production tubing is used to communicate the well fluid with the surface. Scarsdale (Figure 3) discloses a packer and upper completion where there is an outlet and inlet for fluid flow to a pump for assisting with flow towards the surface. The fluid is taken from the annulus of the well through orifices (132). There is a shroud around the section for containing the flow of production fluid as it bypasses the motor of the pump. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the pump and shroud of Scarsdale to pump the fluid from the annulus with the apparatus of Fredd '599. This would be done to allow the fluid to be pumped to the surface if the formation pressure was not enough to drive it.

With regards to the method claims 21-26, it is noted that the steps presented within the method need not necessarily be performed in the order that they are presented. Unless some type of linking language is used to specify an order to the steps, i.e. opening... *then* positioning... *then* flowing, any method that contains these steps would read upon the claims presented.

Allowable Subject Matter

3. Claim 5 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

4. Applicant's arguments filed 6/7/06 have been fully considered but they are not persuasive.

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5. It is noted that the applicant has argued against the obviousness rejection by stating that Scarsdale does not disclose a “valve system used in conjunction with a tubing flowing production fluid to the surface.” The examiner agrees that this is not shown, but these features are not what are relied upon in the Scarsdale reference. It seems as if the applicant is arguing against Scarsdale independent of the combination with the Fredd reference. One cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Conclusion

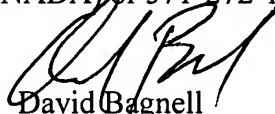
6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel P. Stephenson whose telephone number is (571) 272-7035. The examiner can normally be reached on 8:30 - 5:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David J. Bagnell can be reached on (571) 272-6999. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


David Bagnell
Supervisory Patent Examiner
Art Unit 3672

DPS 